

Proposed Rule

Fees

Public Meeting

Testimony of

Derek D. Swick, Ph.D.

American Petroleum Institute

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Good morning. I am Derek Swick, Manager of Regulatory and Scientific Affairs at the American Petroleum Institute (API). API is a national trade association representing all facets of the oil and natural gas industry, which supports 9.8 million U.S. jobs and 8 percent of the U.S. economy, and provides most of the nation's energy. API's more than 650 members include large integrated companies, as well as exploration and production, refining, marketing, pipeline, and marine businesses, and service and supply firms.

API and its members are dedicated to protecting human health and the environment while developing and supplying energy resources. API's members are involved in all major points of the chemical supply chain—from natural gas and crude oil production, to refinery production of fuels and other products, to service companies using chemicals. We recognize our responsibility to work with the public, government, and others to address risks that may arise during the production, processing, distribution, and use of chemicals. We will be active stakeholders in the forthcoming initiatives to implement the Frank R. Lautenberg Chemical Safety for the 21st Century Act.

API supports a reasonable and equitable TSCA fee system, to be developed in accordance with statutory requirements and limitations. API would like to offer EPA some suggestions for its consideration in developing the fee system.

- As a general principle, it is essential that EPA be transparent about its methodology for setting fees. The Agency should clearly explain to the public how it derives any proposed dollar amounts for fees. We think that the relative dollar amounts of each of the various fees should be proportional to EPA's level of effort to do the associated review, evaluation, or other Agency activity, and fees should certainly not be assessed based on the volume of a chemical manufactured.
- API thinks that it is most practical for EPA to focus the fee system on payments that are associated with specific TSCA submissions or requests, for example, a fee associated with a PMN submission or a request for a risk evaluation. A fee that would apply to multiple manufacturers or processors and is not linked to a specific submission or other obligation—like a fee assessed to all manufacturers or processors of a chemical under

EPA evaluation—would be difficult to administer. So we think it will be most effective and workable to focus the fee system on the TSCA activities that are most resource-intensive for EPA and on clearly identifiable payers.

- On the other hand, if EPA does consider imposing any fee on multiple manufacturers or processors at one time—for example, multiple manufacturers or processors of a chemical substance that is the subject of a risk evaluation—then there are some important issues to consider.
 - First, EPA should consider imposing this kind of fee only on manufacturers and not processors. Manufacturers have the primary responsibility for a chemical’s entry into commerce in the U.S. We note that the statute allows only manufacturers (not processors) to request a risk evaluation. If EPA does decide to include processors in fees for risk evaluation of a substance, then it should include them in a second tier, similar to how EPA has applied past section 4 test rules to processors.
 - Second, there would need to be appropriate exemptions, including but not limited to current exemptions in certain TSCA rules for non-isolated intermediates, impurities, byproducts, R&D substances, chemicals produced incidentally, and others. By applying these exemptions, some entities would not be required payers.
 - Third, assessment of this type of fee should involve EPA affirmatively identifying and notifying any companies subject to the fee.
 - Fourth, the fee system should be structured such that a company could choose to exit the business for a specific chemical and not be subject to fees.
- Finally, fees for a TSCA submission should be associated with a commitment from EPA to complete its review action within a set timeframe. Where appropriate, EPA should consider providing the option of a “fast track,” in which a higher fee is associated with a shorter review period.

API supports EPA's efforts to develop an equitable fee system to help support its chemicals management program, and we look forward to working with other stakeholders and EPA on this issue. Thank you.